Equitable Distribution Plan

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Revised November 18, 2008
Revised April 07, 2009
Revised April 23, 2013
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1.0 **Purpose.**

1.1 **Purpose.** The Imperial Irrigation District ("District" or "IID") is authorized by State law to adopt rules and regulations for the equitable distribution of water within the District. The District Board has approved a plan for the equitable apportionment of the available water supply (the "Equitable Distribution Plan"). This Equitable Distribution Plan strictly prohibits individual landowners or water users from transferring water and/or water rights outside the IID service area, but does allow for an intra-district clearinghouse for the movement of agricultural water between IID Agricultural Water Users and Farm Units within the IID water service area. Pursuant to Resolution No. 26-2013, the IID Board of Directors has adopted this Equitable Distribution Plan.

2.0 **Terms and Definitions.**

2.1 **Agricultural Water.** Water used for irrigation, related to agricultural purposes, duck ponds, and algae farming. Pipe and small parcel water service as identified by the District’s *Rules and Regulations Governing the Distribution and Use of Water* is not included in this definition pursuant to Section 2.21 herein.

2.2 **Agricultural Water Clearinghouse or Clearinghouse.** A program administered by the District or other entity authorized by the IID Board of Directors to provide a means by which qualified Agricultural Water Users can transfer water within the IID water service area during a Water Year pursuant to Section 5.0 herein.

2.3 **Agricultural Water Distribution Board.** A committee of Agricultural Water Users and/or landowners designated to provide oversight and decision-making to the Agricultural Water Clearinghouse.

2.4 **Agricultural Water User.** A District Water User that uses Agricultural Water.

2.5 **Apportionment.** The amount of water equitably apportioned among District Water Users pursuant to Section 3.1 herein.

2.6 **Available Water Supply.** Water available to the District minus District Operational Water, system efficiency conservation subject to transfer, 11,500 AF for miscellaneous present perfected rights, and any Water Management Reduction.

2.7 **Conserved Water Rate.** The rate specified in the District’s Rate Schedule 13.

2.8 **Cropland.** Irrigable acreage within the District service area divided into fields based on the [proprietary] District Geospatial Data Base compiled from IID records, inspections and U.S. Consolidated Farm Service Agency (CFSA) Common Land Unit (CLU) standards, or other defined acreage database such as the assessor’s
parcel records as recommended by an advisory committee and approved by the IID Board of Directors.

2.9 **District.** The Imperial Irrigation District.

2.10 **District Conservation Assignment.** Apportionment contractually or automatically assigned to IID for water conservation purposes from lands participating in or designated for participation in any District On-Farm Efficiency Conservation Program, Fallowing Programs or other District conservation programs, or subject to the Temporary Land Conversion Fallowing Policy or Interim Water Supply Policy per the terms and conditions set forth in those program agreements and/or IID policies.

2.11 **District Fallowing Program.** Any program administered by the District to create conserved water by fallowing agricultural lands per the terms and conditions set forth in those program agreements and/or IID policies, including the Temporary Land Conversion Fallowing Policy.

2.12 **District On-Farm Efficiency Conservation Program.** Any program administered by the District to create conserved water by on-farm efficiency projects per the terms and conditions set forth in those program agreements and/or IID policies.

2.13 **District System Conservation Program/Projects.** An integrated package of system improvements to existing infrastructure and construction of new facilities designed to conserve water.

2.14 **District Water User.** Any user of water supplied by the District.

2.15 **Eligible Agricultural Acres.** Acreage that is subject to the Temporary Land Conversion Fallowing Policy or meets all the following tests:

   a. Cropland greater than 5 acres;
   b. Used for crop production, duck ponds or algae farming;
   c. Current with water availability charges and water bills; and
   d. Connected to District water distribution system.

2.16 **Environmental Resources Water.** Water that the District agrees to provide to habitat or other resource areas pursuant to: regulatory permits (excluding water to the Salton Sea relating to transferred water), contract, or voluntarily.

2.17 **Farm Unit.** A grouping designated by an Agricultural Water User of one or more water accounts comprised of one or more fields leased or owned by the Agricultural Water User that can share the Apportionment for those fields.
2.18 **Method of Apportionment.** The method used to determine the Apportionment for Agricultural Water Users during a Water Year. Apportionment models understood and discussed to date are historical, straight line, soil type and hybrids of a combination of these methods. The default Method of Apportionment is Straight Line Apportionment, which may be changed for any Water Year prior to the notification period set forth in Section 3.3 herein at the discretion of the IID Board of Directors.

2.19 **Non-Agricultural Water.** All water supplied by the District that is not Agricultural Water, including, but not limited to, water supplied to municipal water users, industrial water users, feed lots, dairies, fish farms and Environmental Resources Water.

2.20 **Non-Agricultural Water User.** A District Water User that uses Non-Agricultural Water within the District.

2.21 **Operational Water.** Either a direct loss or a reduction in water available for Apportionment because of seepage, evaporation or other losses in the District distribution system, as well as small parcel and pipe water service, adjusted for calculated losses associated with reduced IID diversions.

2.22 **Overrun Payback Program.** A program consistent with the federal Inadvertent Overrun and Payback Policy or other federal policies or programs to which the District may be subject, by which the cost of and/or responsibility for any District payback obligation will be borne by those water users responsible for exceeding the Apportionment in a Water Year (adjusted for any Clearinghouse water transferred into or out of a water user's Farm Unit) should a District overrun occur in that Water Year.

2.23 **Straight Line Apportionment.** A Method of Apportionment used to determine the Apportionment for Agricultural Water Users based on a proration per Eligible Agricultural Acre pursuant to Section 3.1 herein.

2.24 **Take-or-Pay Basis.** An obligation that Agricultural Water Users pay, pursuant to the District's Water Rate Schedules and Rules and Regulations Governing the Distribution and Use of Water, for all of the Apportionment accepted for a field, irrespective of whether the water was used or not.

2.25 **Water Card.** The common term for the "Certificate of Ownership and Authorization of Owner Designee or Tenant" described in Regulation No. 3 of the District's Rules and Regulations Governing the Distribution and Use of Water. The Water Card provides information i.e., Cropland, name and address of owner and any lessees, APN, gate and canal providing water service, identity of person authorized to order water/receive notices from the District, who is obligated to pay, and similar information.

2.26 **Water Management Reduction.** A reduction in water available for Apportionment, or a percentage reduction in a Farm Unit’s Apportionment, because of a
District-wide overrun payback requirement mandatory program, or regulatory limitation of or reduction in IID’s Colorado River water supply.

2.27 Water Year. Each 12-month period that begins on January 1 and ends on December 31.

3.0 Equitable Distribution.

3.1 Apportionment of Supply. The District shall annually apportion the Available Water Supply among the types of water users in the District using the following criteria:

a. Municipal Users – Base amount of 2006 usage plus current District-wide average use per capita multiplied by the increase in population since 2006.

b. Industrial Users – For existing contracts, estimated based on past use, not to exceed contracted amount and contract terms. For new contracts, estimated based on anticipated use, not to exceed contract amount and contract terms, taking into consideration the Integrated Water Resources Management Plan.

c. Feed Lots, Dairies and Fish Farms – Estimated based upon past use and consideration of future changes.

d. Environmental Resources Water—Estimated based upon the amount reasonably necessary to achieve the purposes of the District’s commitments, taking past use into account.

e. Agricultural Lands – Subtract the estimated demand for categories in Subsections (a) through (d) above from the Available Water Supply. Under a Straight Line Apportionment, divide the remaining Available Water Supply by the total number of Eligible Agricultural Acres to determine the Apportionment per Eligible Agricultural Acre. Under a different Method of Apportionment, the Apportionment will be calculated for Eligible Agricultural Acres based on that Method of Apportionment. The full Apportionment of Eligible Agricultural Acres that are no longer receiving agricultural water service (such as renewable energy generation projects) and have been designated as suitable for the Temporary Land Conversion Fallowing Policy, is subject to a District Conservation Assignment.

3.2 Non-Agricultural Water Users

a. District shall notify Non-Agricultural Users of their Apportionment no later than December 1, prior to the beginning of the Water Year.

b. Non-Agricultural Water Users shall be allowed to use that amount of water needed for reasonable and beneficial use. If a Non-Agricultural Water User’s usage exceeds the amount of apportionment quantified for its usage, the fee for
the excess amount of water shall be the Water User’s standard water rate plus the Conserved Water Rate.

3.3 **Agricultural Water Users.**

a. Agricultural Water Users must complete and keep current the Water Card and any Farm Unit designations to receive an Apportionment and delivery of water. It is the Agricultural Water User’s responsibility to keep Farm Unit designations current.

b. A written notice of the apportionment per Eligible Agricultural Acre and the number of Eligible Agricultural Acres per owner shall be sent to the landowner, lessee and the authorized representative no later than October 31 prior to the beginning of the Water Year.

c. Prior to the start of the Water Year, the landowner or authorized representative of Eligible Agricultural Acres must, using a District form, with written consent of the lessee (if any):

1. Accept some, all or none of the Apportionment on a Take-or-Pay Basis.

2. Reserve some or all of the Apportionment on a Take-or-Pay Basis for the use of a future lessee. The landowner remains responsible for payment on a Take-or-Pay Basis for the amount reserved for the future lessee, unless and until payment is made by the future lessee.

3. Designate the person or entity responsible for payment of accepted and unused Apportionment on the Take-or-Pay Basis.

4. Approve or disapprove the use of the Apportionment on other fields within the Farm Unit.

5. Allow or disallow a lessee to offer accepted and unused Apportionment to the Agricultural Water Clearinghouse.

d. The Water User and/or landowner will only be responsible for payment on a Take-or-Pay Basis for Apportionment that is accepted. Payment for the accepted Apportionment shall be made monthly based on actual use or as provided by the Agricultural Water Distribution Board or other entity authorized by the IID Board of Directors. On December 31 of the Water Year; payment for any remaining amount of the unused Apportionment will be included in the year end invoice.

e. Apportionment not affirmatively rejected is considered accepted. In the event a District form accepting Apportionment is not received for a field, IID will provide water delivery service to an owner or lessee with a valid Water Card in an amount not to exceed the Apportionment.
f. Any rejection of Apportionment or any transfers of Apportionment, whether within the Farm Unit or via the Agricultural Water Clearinghouse, are only for the Water Year in which they occur and do not constitute a permanent transfer of Apportionment or create a right to be apportioned water in future years.

3.4 The IID Board of Directors may terminate the implementation of an annual Apportionment at any time at its discretion or upon recommendation of the Water Conservation Advisory Board. The District shall track actual water demands during the Water Year.

4.0 Farm Units.

4.1 The Farm Unit allows for the creation of a master water account under which individual water accounts are aggregated. The District will continue to bill for delivered water by individual water account and not by the Farm Unit or "master water account."

4.2 The primary purpose of a Farm Unit is to allow an Agriculture Water User to order water on any field within the Farm Unit as long as there is a remaining water balance for the Farm Unit greater than the water order. If water is not available within the Farm Unit, the water order will not be accepted, unless and until procedures are developed and implemented under this Equitable Distribution Plan, including procedures for the Overrun Payback Program, that allow for the acceptance of the water order.

4.3 The District will account for water and track a water balance for each field. Fields can move between water accounts when there is a change to the Water Card and the water balance for the field will move with the field.

4.4 A water account may only be associated with a single Farm Unit at any one time. Any water account not designated as part of a Farm Unit will be tracked and identified as an individual Farm Unit comprised solely of that water account.

4.5 The amount of Apportionment available to an Agricultural Water User on leased fields included in a Farm Unit must be approved by the landowner and lessee of those fields.

4.6 Water can be added to a Farm Unit by transferring water through the Agricultural Water Clearinghouse, but the transfer must be made to individual fields within the Farm Unit. If no particular fields are specified, the District will select a field within the Farm Unit to initially receive the water.

4.7 An Agricultural Water User may designate multiple Farm Units. Apportionment may only be transferred between Farm Units via the Agricultural Water Clearinghouse, regardless of whether the Farm Units are designated by the same or different Agricultural Water Users.
4.8 The priority of water use within a Farm Unit is (a) accepted Apportionment authorized for use on the field, (b) water from other fields authorized for transfer within the Farm Unit, and (c) water from the Agricultural Water Clearinghouse. Water from a higher-priority category must be fully-used before water from a lower-priority category may be used within a Farm Unit.

5.0 Agricultural Water Clearinghouse.

5.1 Purpose. A mechanism to facilitate the movement of apportioned water between Agricultural Water Users between Farm Units. Management and operation of the Agricultural Water Clearinghouse may be delegated by the District to an entity authorized by the IID Board of Directors on a non-profit basis under rules approved by the IID Board of Directors; however, all final transactions must be reported to the District for implementation.

5.2 Eligibility. Any Agricultural Water User with Eligible Agricultural Acres can be a transferee. Any Agricultural Water User with an accepted Apportionment may be a transferor. All transferees and transferors must be current on their District water accounts and billings, including any payment required on a Take-or-Pay Basis.

5.3 Priority of Transfers. Water made available to the Clearinghouse for transfer will be distributed pursuant to procedures developed and implemented under this Equitable Distribution Plan. Prior to the development of these procedures, water available for transfer will be apportioned proportionally, by acreage, to all Farm Units that have submitted a request for additional water.

5.4 Dispute Resolution. All disputes regarding water transferred into or out of the Clearinghouse will be resolved by the Agricultural Water Distribution Board or other entity authorized by the IID Board of Directors.

5.5 Agricultural Water Distribution Board Composition. This board shall be comprised of agricultural landowners, water users and/or representatives appointed by, or using a methodology approved by, the IID Board of Directors.

5.6 Clearinghouse Notice of Transfer. The Agricultural Water Clearinghouse reporting mechanism to document all transfers of apportioned water including the relevant transactional information to execute the transaction between the Transferor and Transferee.

5.7 Water Transferred Through the Agricultural Water Clearinghouse. The transferee shall pay the District the total payment amount due for the transferred water before the processing of any Notice of Transfer for the transferred water. The total amount due is based on the Acre-Feet of water transferred (not to exceed Clearinghouse Notice of Transfer) multiplied by the current District agricultural water rate. After the District processes the Clearinghouse Notice of Transfer, the transferor shall have no further obligation for payment of that water on a Take-or-Pay Basis. Any
supplemental transactional information or fees associated with the transfer of the water between the transferor and transferee but not relevant to the implementation of the transaction are a private matter and shall not be reported to the District.

5.8 Offers Remaining at Water Year End. Any offers for water to be transferred through the Agricultural Water Clearinghouse not transferred by the end of the Water Year may be used by the District to meet the needs of other District Water Users, fulfilling conservation responsibilities, or for other District purposes. Use by the District in this manner will not relieve the Water Users of payment required on the Take-or-Pay Basis.

Interface With District Agricultural On-Farm Conservation and Land Fallowing Programs.

5.9 An Agricultural Water User that participates in the District's On-Farm Conservation or Fallowing Programs is subject to a District Conservation Assignment of the Water User's accepted Apportionment for the Farm Unit equal to the amount of water conserved by on-farm measures or fallowing for which the Agricultural Water User is contracted.

a. If the Agricultural Water User's Apportionment is less than his On-Farm Conservation or Fallowing Program contracted amount, he must procure this difference from either: the Agricultural Water User's accepted Apportionment on other Eligible Agricultural Acres, or the Agricultural Water Clearinghouse.

b. If the Agricultural Water User's Apportionment is more than his Fallowing Program contracted amount, the Agricultural Water User may use the difference on other Eligible Agricultural Acres not participating in a District Agricultural Land Fallowing Program, on the fallowed field after the term of Fallowing Program, or offer it to the Agricultural Water Clearinghouse.

6.0 Miscellaneous

6.1 The IID Board of Directors, at its sole discretion, which may include consideration of recommendations by the Water Conservation Advisory Board, may declare a 15-day period in which all offers of water received by the Agricultural Water Clearinghouse, of up to 7% (seven percent) of the Water User's Apportionment, shall be accepted by the District thereby relieving the Water Users of payment of that water on the Take-or-Pay Basis. This water accepted by the District will be offered back for transfer to Agricultural Water Users via the Agricultural Water Clearinghouse.

6.2 The General Manager is authorized and directed to do any and all things necessary to implement and effectuate these Regulations in a manner consistent with this policy, including the temporary modification of any dates necessary to facilitate implementation.